Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20544

In the Matter of the Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
Request for Comment on Certain of the Commission's Rules Relating to High-Cost Universal Service Support and the ETC Designation Process	)	

THE ALASKA TELEPHONE ASSOCIATION'S COMMENTS IN RESPONSE TO THE FEDERAL-STATE JOINT BOARD'S REQUEST FOR COMMENTS ON HIGH-COST UNIVERSAL SERVICE SUPPORT MECHANISMS

I. INTRODUCTION

On August 16, 2004, the Federal-State Joint Board on Universal Service released a public notice seeking comment on an extensive array of issues referred to it by the Federal Communications Commission ("FCC") relating to high-cost universal service support mechanisms for rural carriers. See FCC 04J-2, *Federal-State Joint Board on Universal Service Seeks Comment on Certain of the Commission's Rules Relating to High-Cost Universal Service Support,* Docket No. CC 96-45 ("Joint Board Request for Comments"). Because of the explosive growth of the Universal Service Fund ("USF"), the Joint Board Request for Comments raises a large number of questions relating to the potential revamping of the universal service support mechanism, which makes high quality telecommunications service available and affordable to all Americans who live

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in rural areas. The Alaska Telephone Association ("ATA") hereby provides its opening comments.[1]

II. ANALYSIS

To some, a "rural area" may mean a quaint, picturesque community such as Harper's Ferry, West Virginia, or the Shenandoah Mountains, or Chincoteague, Virginia, or the eastern shore of Maryland, which are only several hours away from Washington, D.C., reachable by car along a well-maintained road. Perhaps a "rural area" is farther away, such as Franconia Notch, New Hampshire, or Bar Harbor, Maine, reachable along I-95. However, rural areas in Alaska are infinitely different. They are typically not accessible by road, but only by plane or by boat — and then only some of the time. Small numbers of residents live in villages surrounded by vast expanses of harsh, unforgiving terrain and in areas of extreme temperatures. Winters are brutally cold and unforgiving. The percent of residents in rural Alaska living below the poverty line is high because there are few jobs. Community residents rely on subsistence hunting and fishing for food.

Because of the physical ruggedness and isolation of rural Alaska communities, telecommunications services are the primary link for access to basic governmental

[1] The ATA's active members are: Alaska Power & Telephone Company; Arctic Slope Telephone Association Cooperative; Bristol Bay Telephone Cooperative, Inc.; Bush-Tell, Inc.; Copper Valley Telephone Cooperative, Inc.; Cordova Telephone Cooperative; Interior Telephone Company, Inc.; Ketchikan Public Utilities – Telephone Division; Mukluk Telephone Company, Inc.; Matanuska Telephone Association, Inc.; Nushagak Cooperative; OTZ Telephone Cooperative, Inc.; Summit Telephone Company; United-KUC, Inc.; United Utilities, Inc. and Yukon Telephone Company, Inc.

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services, health care, education and commerce. High quality and dependable basic and advanced telecommunications services provide rural Alaska's lifeline for essential services.

A few examples underscore these points. Diomede is an Eskimo community on a rocky island 135 miles northwest of Nome. Diomede is approximately 610 air miles from Anchorage which, in turn, is approximately 1,428 air miles from Seattle. There are no roads to Diomede. The median household income in Diomede is $23,750. Per capita income is $9,944, and 35.44% of residents live below the poverty line. The State of Alaska homepage describes Diomede as follows:[2]

> Little Diomede villagers depend almost entirely upon a subsistence economy for their livelihood. Employment is limited to the City and school. Seasonal mining, construction and commercial fishing positions have been on the decline. The Diomede people are excellent ivory carvers; the City serves as a wholesale agent for the ivory. Villagers travel to Wales by boat for supplies. Mail is delivered once per week.
>
> Due to constant winds from the north, accessibility is often limited. A State-owned heliport allows for weekly mail delivery. There is no airstrip due to the steep slopes and rocky terrain, so skiplanes must land on an ice strip in winter. Few float plane pilots attempt to land on the rough, often foggy open sea during summer. Regular flights are scheduled from Nome, weather permitting. There is a breakwater and small boat harbor. Skin boats are still a popular method of sea travel, 28 miles to Wales. Cargo barge stops are irregular, due to sea or ice conditions, but deliver at least annually. Lighterage services are available from Nome.

[2] See http://www.commerce.state.ak.us/dca/commdb/CIS.cfm.

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Another example is Chalkyitsik, an Athabascan village with a subsistence lifestyle located in the northeast corner of Alaska, approximately 423 air miles from Anchorage. The median income in Chalkyitsik is $16,250, the per capita income is $11,509, and 52.63% of residents live below the poverty line. The State of Alaska homepage describes Chalkyitsik as follows:[3]

> Wage opportunities are limited and primarily part-time with the school district, village council, clinic, or state and federal agencies. Seasonal work is found fire firefighting for the BLM, making sleds and snowshoes, trapping and handicrafts. Subsistence plays an important role in the village economy. Moose, caribou, sheep, salmon and whitefish provide a relatively stable source of food.
>
> Access is primarily by air; there is a State-owned 4,000' long by 90' wide gravel runway. Residents own ATVs, snowmachines and skiffs for fishing, hunting and recreation. No roads connect Chalkyitsik with other villages, although there is a winter trail to Fort Yukon. It is accessible by small riverboat. Chalkyitsik received cargo by barge at one time, but the service is no longer provided.

A third example is Chevak, an Eskimo community in the Yukon-Kuskokwim Delta approximately 516 air miles from Anchorage. The median household income in Chevak is $28,875, the per capita income is $7,550 and 29.49% of the residents live below the poverty line. The State of Alaska homepage describes Chevak as follows:[4]

> Employment in Chevak is at its peak in the summer months and declines to a few full-time positions during winter. Construction projects and BLM fire fighting provide summer

[3] See footnote 2.

[4] See footnote 2.

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> employment. Eighteen residents hold commercial fishing permits. Incomes are supplemented by subsistence activities and handicrafts. Salmon, seal, walrus, clams and waterfowl are harvested.
>
> A State-owned 2,610' long by 40' wide gravel airstrip is available, although heavy winds and rain can preclude air access. A relocation of the airport is currently underway. Float planes can land on Chevak Lake/Ninglikfak River. There are no docking facilities, however, a barge landing is available for cargo off-loading. Skiffs are used for local travel on the river in the summer, and snowmachines are used in the winter. Winter trails exist to Scammon Bay (25 mi.), Hooper Bay (20 mi.) and Newtok (50 mi.)

A fourth example is Stebbins, which is located on the northwest coast of St. Michael Island, on Norton Sound, 120 miles southeast of Nome and approximately 426 air miles from Anchorage. It is a Yup'ik Eskimo village with a commercial fishing and subsistence lifestyle. The median household income is $23,125, per capita income is $8,249, and 41.88% of residents live below the poverty line. The State of Alaska homepage describes Stebbins, as follows:[5]

> The Stebbins economy is based on subsistence harvests supplemented by part-time wage earnings. The City and schools provide the only full-time positions. The commercial herring fishery has become increasingly important, including fishing on the lower Yukon. 18 residents hold commercial fishing permits. Residents subsist upon fish, seal, walrus, reindeer and beluga whale. Gardens provide vegetables during the summer months. The Stebbins/St. Michael Reindeer Corral Project was completed in 1993 for a herd on Stuart Island. The reindeer are essentially unmanaged.

[5] See footnote 2.

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> Stebbins is accessible by air and sea. There is a State-owned 3,000' long by 60' wide gravel runway. Regular flights, charters and freight services are available from Bethel. A cargo ship brings supplies annually. There is no dock, and lighterage of goods to shore is provided out of Nome. Overland travel in the winter is by snowmachine.

While these areas are plainly "rural," they are dramatically more "rural" than most rural parts of the United States. For example, a recent report by NECA states that the median household income in nonrural areas is $46,600, while the median household income in rural telephone service areas is $40,600. *NECA, Trends in Telecommunications Cost Recovery: The Impact on Rural America* (October 2002) at 6 ("2002 NECA Report"). However, the median household income in many communities served by ATA members is much lower, as demonstrated the median household income described in the four communities above ($23,750, $16,250, $26,875 and $23,125, respectively).

Furthermore, rural carriers in some states serve populations of over 100 persons per square mile. *In the Matter of Federal-State Joint Board on Universal Service, Rural Task Force Recommendation to the Federal-State Joint Board on Universal Service*, CC Docket No. 96-45 (rel. September 29, 2000)("Rural Task Force Recommendation"), at 11. Rural carriers in Alaska, however, serve populations of 0.58 person per square mile. Id.

At its core, the purpose of the universal service fund is to ensure that all Americans have access to high quality, affordable telecommunications service. Policymakers recognized many years ago that rural Americans depend on

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telecommunications services for access to the outside world and that fact remains very much the case in rural Alaska. Without high-quality and affordable telecommunications services, residents of Diomede or Chevak (or of Alaska's countless other similarly isolated rural communities), would be required to fly (weather permitting) hundreds of miles to Anchorage or potentially even thousands of miles to Seattle for access to basic government, education and commercial services. Any changes to universal service support mechanisms in rural areas must recognize and respect rural Alaska's profound remoteness and intense dependence on telecommunications services in order to effectuate Congress' goal that all Americans have access to high quality and affordable basic and advanced telecommunications services.

A. <u>Should there be a change in the definition of "rural" for purposes of determining support</u>?

The ATA does not believe that there should be a change in the definition of "rural." High-cost support is now appropriately targeted to rural and high-cost areas. The explosive growth in the universal service fund, which has prompted the Joint Board's Request for Comments, and which is projected to continue to escalate, should be addressed. However, the cure is not to diminish support for rural Americans in high-cost areas. To the contrary, universal service funding should continue to focus on the delivery of support in rural, high cost areas where basic and advanced telecommunications services would not exist but for universal service funding. However, if the definition of "rural" is altered, extreme care must be taken to ensure

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that Alaska's communities continue to receive all support necessary to ensure continued access to basic and advanced telecommunications services at affordable rates.

B. What changes, if any, are needed to the rural support mechanism and policies?

1. Should support in rural areas be determined on other than a study area basis?

This question, and others like it contained in Paragraph 12 of the Joint Board Notice of Inquiry, focuses on whether support should continue to be targeted based on study area size and asks whether consolidation of study areas would promote economies of scale. As applied to the rural carriers served by the ATA, support should continue to be based on study area size. Any smaller geographic area, such as a wire center, would require such a granular analysis so as to significantly and dramatically increase rural carriers' administrative costs. A larger geographic area, such as one formed through consolidation of study areas, would result in an averaging of costs. This, in turn, would necessarily result in a dilution of support which means that the highest cost communities in a rural company's study area may not receive needed support. Such a result runs counter to the 1996 Telecommunications Act's universal service principles. Basing universal service support in rural areas on a study area basis strikes the appropriate balance.

Moreover, ATA companies that provide service to multiple study areas do benefit from economies of scale by virtue of their holding company structures. TelAlaska, Inc. is a holding company, with two local exchange companies (Mukluk

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Telephone Company, Inc. and Interior Telephone Company, Inc). United Companies, Inc. is a holding company and has two local exchange companies (United-KUC, Inc. and United Utilities, Inc.). Alaska Power & Telephone Company is a holding company with three local exchange companies (Alaska Telephone Company, Bettles Telephone, Inc., and North Country Telephone, Inc.). While each of these local exchange companies have separate study areas, they achieve economies of scale by virtue of their holding company structure.[6] And, by maintaining different study areas, universal service is effectively targeted to the respective communities and reflects the economies of scale achieved by their respective corporate structures.

2. Should embedded costs, models, or some other method be used to determine support? What changes should the Commission support or oppose?

The ATA, in the strongest terms possible, advocates the continued use of embedded costs for determining universal service support. The Rural Task Force was established by the FCC in 1998 to identify the issues unique to rural companies and to analyze the appropriateness of proxy models for rural companies.[7] It was comprised of individuals representing a wide range of interests, including rural telephone companies, competitive local exchange carriers, interexchange carriers, wireless providers, consumer advocates, and state and federal agencies. After years of extensive analysis,

[6] The benefits derived from the economies of scale are realized in the rural local exchange companies' annual or biennial intrastate access charge filings and in the rural local exchange companies' local rate cases.

[7] Public Notice, Federal-State Joint Board on Universal Service Announces Rural Task Force Members, FCC 98J-1, CC Docket No. 96-45 (July 1, 1998).

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including the preparation of six detailed white papers addressing, among other things, the nature and scope of the differences between urban and rural carriers,[8] the Rural Task Force issued its Recommendation in September 2000, and called for the continued use of embedded costs for determining universal service support for rural carriers.[9] This conclusion remains as valid today as it did in 2000.

The foundation for this recommendation was based on both legal principles and empirical analyses. The legal underpinnings of the Rural Task Force's recommendations start with 47 U.S.C. § 254. The policies and principles set forth in this statute are intended to ensure that all regions of the Nation have access to high quality and affordable telecommunications service, as well as advanced telecommunications and information services. Some of the most significant provisions include:

> *(b) UNIVERSAL SERVICE PRINCIPLES.* – The Joint Board and the Commission shall base policies for the preservation and advancement of universal service on the following principles:
>
> (1) *QUALITY AND RATES.* – Quality services should be available at just, reasonable and affordable rates.

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[8] The White Papers were: White Paper 1, "*Rural Task Force Mission and Purpose*;" White Paper 2, *"The Rural Difference*;" White Paper 3, "*Alternative Mechanisms for Sizing A Universal Service Fund for Rural Telephone Companies*;" White Paper 4, "*A Review of the FCC's Non-Rural Universal Service Fund Method and the Synthesis Model for Rural Telephone Companies*;" White Paper 5, "*Competition and Universal Service*;" and White Paper 5, "*Disaggregation and Targeting of Universal Service Support."* The White Papers are available at http://www.wutc.wa.gov/rtf.

[9] The Rural Task Force recommended the use of a Modified Embedded Cost Mechanism, which relies on embedded costs and is in use today. *Rural Task Force Recommendation* at 4, 15-21.

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(2) *ACCESS TO ADVANCED SERVICES.* – Access to advanced telecommunications and information services should be provided in all regions of the Nation.

(3) *ACCESS IN RURAL AND HIGH COST AREAS.* – Consumers in all regions of the Nation, including low-income consumers and those in rural, insular, and high cost areas, should have access to telecommunications and information services, including interexchange services and advanced telecommunications and information services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas.[10]

. . .

(5) *SPECIFIC AND PREDICTABLE SUPPORT MECHANISMS* – There should be specific, predictable and sufficient Federal and State mechanisms to preserve and advance universal service.

In addition, the Rural Task Force considered Congress' explicit recognition that policies pertaining to universal service and competition for rural telephone companies could be different from those applying to other areas. Specifically, the Rural Task Force noted the different treatment of rural carriers in Section 214(e)(2) and in Section 251(f)(1). Id. at 9. Section 214(e) gives state commissions flexibility in determining whether to grant ETC designation to a second carrier in an area served by a rural telephone company. Before designating a second carrier as an eligible telecommunications carrier, the state must first find that such designation is in the public interest. Section 214(e) also requires an ETC to provide service throughout a

[10] The Rural Task Force also found important parallel language set forth in Section 706 of the Telecommunications Act of 1996.

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rural incumbent local exchange carrier's service area. Section 251(f)(1) provides that rural carriers are exempt from Section 251(c) interconnection requirements until they receive a bona fide request for interconnection and until a state commission concludes that terminating a rural exemption is not unduly economically burdensome, is technically feasible, and is consistent with universal service principles.

The Rural Task Force also examined comprehensively whether there were empirical differences between rural and non-rural carriers, and concluded, based on a detailed study, that there were. Id. at 10-14. Those differences are identified and examined in the Rural Task Force's White Paper 2, "*The Rural Difference*," released in January 2000. That study assembled national data contrasting rural and non-rural carriers, and documented a substantial diversity between the two. The Rural Task Force concluded:

- Rural carriers serve more sparsely populated areas.
- There is a significant variation in study area sizes and customer bases among rural carriers.
- The isolation of areas served by rural carriers results in numerous operational challenges.
- Compared to non-rural carriers, the customer base of rural carriers generally includes fewer high-volume users, depriving rural carriers of economies of scale.

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- Compared to customers of non-rural carriers, customers of rural carriers tend to have a relatively small local calling scope and make proportionately more toll calls.
- Rural carriers frequently have substantially fewer lines per switch than do non-rural carriers, providing fewer customers over which to spread high fixed network costs.
- Total investment in plant per loop is substantially higher for rural carriers than for non-rural carriers.
- Plant specific and operations expenses for rural carriers tend to be substantially higher than for non-rural carriers.
- Customers served by rural carriers have different demographic characteristics from customers in areas served by non-rural carriers.

Id. These conclusions were confirmed by NECA using more recent data, in its 2002 Report. *2002 NECA Report* at 3-13.

The Rural Task Force concluded that "[a] universal service system which delivers sufficient support should also provide proper incentives for investment in rural America" and that "[i]n order to provide these incentives, the universal service support mechanism should be transparent, stable, predictable, and competitively neutral as well as sufficient." *Rural Task Force Recommendation* at 14.

The Rural Task Force evaluated different options for delivering universal service and rejected several alternatives to the embedded cost mechanism, including a forward-looking cost model, competitive bidding approaches, a rate buy-down mechanism, and a

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melded approach. Id. at 16-17. The Rural Task Force analyzed the strengths and weaknesses of each and in particular examined the application of the FCC Synthesis Model to the rural test companies and concluded that the costs generated by this model were likely to vary widely from reasonable estimates of forward-looking costs. Id. at 17-18. For example:

- The quantity of lines in the model differed significantly from actual lines served.
- The model produced significant variations in the number of route-miles when compared with actual data.
- Model results for the type of plant varied widely from actual plant constructed, an error attributed to the diverse character of the rural geography, and the use of a single set of inputs by density zone based on the experience of non-rural carriers.
- The model significantly underestimated wire center area. In 95% of the wire centers, the land area was understated.
- The model significantly underestimated central office equipment switching investment, and network operations and customer operations expenses, errors attributed generally to the lack of economies of scale of rural carriers.

Rural Task Force Recommendation at 17-18.

For these reasons, the Rural Task Force concluded that the FCC Synthesis Model was not an appropriate tool for determining the forward-looking costs of rural carriers.

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Id. at 18. Simply put, if the model's application produces unreliable results, a universal service mechanism based on that model does not satisfy Congress' goal that support be predictable and sufficient.

A rural support mechanism that bases support on embedded costs rather than forward-looking economic cost estimates achieves Congress' goal of ensuring that the availability of telecommunications services in rural areas is comparable to urban areas in terms of both rates and quality. Members of the ATA depend on support mechanisms to provide affordable, high quality telecommunications services to their customers. It is both intuitive and well-documented that without those mechanisms, rates in most of rural Alaska would skyrocket to unaffordable levels, particularly since rural communities have small populations to support an expensive telecommunications network and since a significant percent of Alaska's rural residents live at or below the poverty line. As but a few examples, the percent of residents living below the poverty line in rural Alaska include: Kwethluk (29.52%); Koyuk (27.99%); Diomede (35.44%); Stebbins (41.88%); Ekwok (32.08%); Tatitlek (24.21%); Kobuk (28.57%); Kivalina (26.4%); Noatak (22.04%); Selawick (34.38%); Chevak (29.49%); and Chalkyitsik (52.63%).[11] As the 2002 NECA Report, at p. 46, concluded:

> Without universal service support, end users would have to absorb all of the costs currently recovered through the support fund. This would put the price of basic local telephone service out of reach for many rural subscribers, threatening

[11] These percentages are based on the most recent census and are set forth on the State of Alaska's homepage at http://www.commerce.state.ak.us/dca/commdb/CIS.cfm.

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the founding premise of universal service funding —
affordable basic local service rates in rural, high cost areas.

No telecommunications company, for any extended period, can justify or afford to provide telecommunications services to communities if the company cannot recover its costs, much less recover any return. And, without a likelihood of recovering its costs, a rural telecommunications company certainly cannot justify investing in and implementing new technologies and innovations. Universal service support must be sufficient and predictable, and unless a model accurately predicts costs, a model will not calculate an amount of universal service support that is sufficient and predictable. Due to the diversity of rural carriers, a model can only provide a reasonable estimate if it is based on inputs that represent carriers' individual circumstances. The only inputs that can provide this level of accuracy are actual network designs and actual operating costs. This makes it nonsensical to use a model; actual embedded costs are the only option.

The Rural Task Force's work was comprehensive and balanced, and the legal, policy, and empirical bases for its recommendations have not changed since 2000. In fact, its empirical bases have been confirmed in the 2002 NECA Report. *2002 NECA Report* at 3-13. The Rural Task Force's conclusion that universal service support in rural areas should continue to be based on an embedded cost mechanism remains as valid today as it was four years ago and there is no reason to expect this to change in the foreseeable future. Because the embedded cost mechanism reflects actual costs, it provides predictable and sufficient support. And, it is verifiable. For all of these

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reasons, an embedded cost mechanism should continue to be used as the basis for determining universal service support in rural areas.

3. Should the loop, switching and possibly other support mechanisms be merged?

The high-cost loop mechanism[12] should not be merged with local switching support.[13] These mechanisms are intended to address separate issues that face small, rural carriers and should therefore remain discrete. While small rural carriers can have both high loop costs as well as high switching costs, this is not always the case. In order to meet the needs of all rural customers, these separate mechanisms should continue to be calculated separately.

4. Should the urban and rural support mechanisms be reconciled, and if so, how?

No. For all of the reasons discussed in Section II (B)(2) above, as well as for the reasons set forth in the Rural Task Force's White Paper No. 2, the rural support mechanism should continue to be distinct from non-rural support.

[12] The purpose of the high-cost loop support mechanism is to provide support for companies with high loop costs.

[13] The purpose of the local switching support (LSS) mechanism is to provide explicit support for study areas with a high switching costs, which are generally characterized by a small number of customers. Rural carriers frequently have fewer lines per switch than do non-rural carriers, which means there are fewer customers over which to spread high fixed network costs.

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5. Should the Commission advocate a specific policy regarding support payments for transferred exchanges?

47 C.F.R. § 54.305(a) provides that the per-line support level for an acquired exchange shall be at the same per-line support level for which the exchange was eligible prior to the transfer. It was established to discourage carriers from transferring exchanges merely to increase their share of high-cost universal service support.[14] The FCC subsequently amended this rule to allow additional high-cost loop support for investments in newly acquired exchanges through a mechanism called the "Safety Valve," which is set forth at 47 C.F.R. § 54.305 (b) through (e). However, the formula that calculates Safety Valve support is highly restrictive,[15] and the ATA understands that to date few, if any, funds have been distributed to deserving carriers.

This rule has hindered infrastructure development in rural Alaska. In 2000, several Alaska rural local exchange carriers acquired various local exchanges from GTE Alaska, Inc. For at least one of these companies (Interior Telephone Company), the required infrastructure upgrades and repairs have been extraordinary and substantial

[14] Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, 8942-43 (1997)(First Report and Order), as corrected by Federal-State Joint Board on Universal Service, Errata, CC Docket No. 96-45, FCC 97-157 (rel. June 4, 1997) at ¶ 308, affirmed in part, reversed in part and remanded in part sub nom. Texas Office of Public Utility Counsel v. FCC, 183 F.3d 393 (5th Cir. 1999).

[15] Under the Safety Valve mechanism, a rural carrier's safety valve support is capped at 50% of any positive difference between the amount of high-cost loop support that the rural carrier would qualify for in an index year versus subsequent years. 47 C.F.R. § 54.305(d). And, this amount is further subject to a cap of 5% of annual high-cost loop support available to all rural carriers in any particular year. 47 C.F.R. § 54.305(e).

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(well exceeding several million dollars), and the required infrastructure upgrades and repairs are continuing to be made. As a result of 47 C.F.R. § 54.305(a), the level of high-cost loop support that Interior Telephone Company receives for these infrastructure upgrades and repairs is limited to the high-cost loop support level that GTE Alaska, Inc. received, which was calculated based on GTE Alaska, Inc.'s average line costs and is well below Interior Telephone Company's actual average line costs. As a result of this regulation, there has been no additional high-cost loop support available for infrastructure investment and Interior Telephone Company has had to fund the construction of new facilities necessary to serve previously unserved customers, and to upgrade existing facilities, through internal resources. The effect of 47 C.F.R. § 54.305(a) has been to slow rather than to hasten the ability of Interior Telephone Company's affected customers to have access to both basic and advanced services.

One remedy to address this issue is to simply eliminate the restriction on the acquired exchanges entirely. Deterrents could be developed to address concerns about gaming the system if these concerns remain.[16] In addition, the 5% cap set forth at 47 C.F.R. § 54.305(e) should be removed.

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[16] One option would be to limit the period of time in which 47 C.F.R. § 54.305(a) is applied to the newly acquired lines. After expiration of that period of time, the newly acquired lines would be treated identically to the other lines of the acquiring company for purposes of calculating high-cost loop support.

C. If multiple ETCs are supported, should the competitive ETC receive support based on its own costs, the incumbent's costs, the lesser of its own or the incumbent's costs, or some other estimate of costs?

The Joint Board Request for Comments asks commenters to discuss the recommended basis for calculating support for competitive ETCs if multiple carriers are supported. A more fundamental question that should first be asked is whether universal service funds should continue to support competition in areas where no carrier would serve if not for the existence of Universal Service Funds. Competition and universal service are not synonymous goals. A key goal of the Telecommunications Act of 1996 is to ensure that consumers in rural, high cost areas have access to affordable, basic and advanced telecommunications services. If competition were synonymous with this principle, competition would be mandated in all markets. However, in rural markets, competition is not mandated. See, e.g., 47 U.S.C. § 251(f)(1)(a); 47 U.S.C. § 214(e)(2). The Joint Board should first ask the more fundamental question of whether it makes sense to use universal service funds to support competition in markets that are so high cost that no carrier would serve but for the availability of universal service funds, particularly when the sustainability of the Universal Service Fund is at issue.

If multiple ETCs are supported, the competitive ETC should receive support based on its own costs rather than on the incumbent rural carrier's costs. Currently, competitive ETCs receive support based on an incumbent rural carrier's costs, and this is not competitively neutral. For example, a competitive wireless ETC nearly always has lower costs than a rural incumbent carrier as it has less capital tied up in

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infrastructure.[17] As a result, a wireless carrier receiving support based on the wireline carrier's costs receives a windfall. At the same time, the competitive wireless ETC also has far fewer regulatory obligations than the incumbent rural carrier, which must meet service quality standards, stand ready to respond to all requests for service in accordance with carrier of last resort obligations, and is subject to rate regulation and tariffing requirements. A competitive wireless ETC operates unencumbered by these parameters and can therefore avoid many costs that a rural incumbent carrier cannot. Plainly, this is NOT competitively neutral. Moreover, basing support only on the incumbent wireline provider's higher costs runs counter to the long-term sustainability of the universal service system.

For all of these reasons, a competitive ETC should receive support based on its own costs and not the incumbent carrier's costs. This would result in "specific" and "sufficient" support for competitive ETCs. It would also help ensure that support is used only for the provision, maintenance and upgrading of facilities and services for which the support is intended. Additionally, it would remove the perverse financial incentives that competitive wireless carriers now have to enter high-cost areas. It would

[17] The Rural Telecommunications Associations' August 6, 2004 Comments to the FCC in CC Docket No. 96-45 states that data from a November 2003 National Exchange Carrier Association report indicates that the national average capital investment per loop for all ILECs was $2,345, and that, in comparison, a 2003 survey by the Cellular Telecommunications & Internet Association indicates that the national average capital investment per reported subscriber for all wireless carriers was $955. The Rural Telecommunications Associations is comprised of the Organization for the Promotion and Advancement of Small Telecommunications Companies, the Rural Independent Competitive Alliance, and the Rural Telecommunications Group, Inc.

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also be competitively neutral because the competitive ETC would receive support on the same basis as the incumbent rural carrier.

There are a variety of industry proposals circulating that are designed to control growth of the fund and to provide sufficient support to both wireless and wireline ETCs. For example, one proposal by the Rural Telecommunications Associations articulates an interim plan for the FCC's adoption and implementation while the Federal-State Joint Board on Universal Service and the FCC consider more long-term reforms for ETCs serving rural service areas. See *Comments of the Rural Telecommunications Associations* dated August 6, 2004, filed in CC Docket No. 96-45. This proposal may have some merit.

D. <u>If support continues to be based on embedded costs, should new limitations be imposed, or existing limitations adjusted, on particular categories of investment or expense? For example, the high-cost loop support mechanism currently limits corporate operations expense</u>.

Administrative cost burdens placed on rural carriers have increased over the years since passage of the Telecommunications Act of 1996, particularly with respect to management costs as well as legal, regulatory and accounting requirements. The need for experienced, competent management is absolute in this environment of change. Federal and state regulatory agencies have directly contributed to the increased burden through a plethora of rulemaking proceedings and related studies. Although participation in these proceedings is theoretically optional, responsible management dictates participation, at least in areas that directly impact rural companies. Complex studies, such as disaggregation studies, are also theoretically optional but carriers have a

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responsibility to prepare themselves for change. For the regulatory process to impose these new burdens on small rural companies but then restrict their opportunity to recover the costs places small, rural carriers in a no-win situation. Costs that have been appropriately incurred should be allowed to be recovered and the existing limits now in place should be removed. Part 36.621(a)(4)(i) and (ii)(A) through (D) contains the calculation of the corporate operations expense amount that is includable in high cost loop support. It specifies that this expense amount is limited to the lesser of actual expenses and a calculated amount that varies depending upon the size of the study area. The language in this section should be modified to remove the option of receiving less than actual expenses incurred.

E. Should there be a single model that estimates costs using the lowest cost technology?

The ATA strongly opposes the use of a model that estimates costs using the lowest cost technology. The Rural Task Force rejected the use of the FCC's Synthesis Model in rural areas because the model's results varied widely from reasonable estimates. *Rural Task Force Recommendation* at 18. As such, use of a model for sizing and targeting universal service support does not promote investment in high cost, rural areas and does not satisfy the 1996 Telecommunications Act's principles that federal universal service support be predictable and sufficient. A model attempting to use the lowest cost technology is plainly corrosive to universal service principles and should not be considered.

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III. CONCLUSION

Rural Alaska is more "rural" than any other rural area of the United States. Rural Alaska communities are isolated, largely inaccessible by road, have a significant percent of residents who live below the poverty line, have low population densities, are high cost, and are characterized by rugged and remote terrain. In order for any telecommunications company to justify investing in rural Alaska, and to continue to justify investing in rural Alaska, universal service support must be sufficient and predictable. The ATA endorses, in the strongest possible terms, the continued use of the embedded cost mechanism in determining distribution of the Universal Service Fund in rural areas, as it fosters high-quality, affordable basic and advanced telecommunications services in rural Alaska. The Rural Task Force recommended the continued use of an embedded cost mechanism for sizing the universal service fund in rural areas, and its conclusion deserves great weight as it was based on years of comprehensive policy, legal, and empirical analyses. Moreover, there is no proffered rationale or analysis to counter the Rural Task Force's exhaustive conclusions and the Rural Task Force's empirical analyses have been confirmed by NECA in the 2002 NECA Report.

While the size of the universal service fund is escalating, changes to universal service funding mechanisms in order to decrease the demands on the fund should not harm rural Americans, and particularly rural Alaskans, as rural Alaska is uniquely dependent on a high quality and affordable telecommunications network for access to basic government, commercial and education services. Rather, the Joint Board should

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ask the hard questions about how to best use universal service funds to satisfy Congress' universal service goals, and should not hesitate to redirect universal service funds to where they are most needed.

Dated this 15th day of October, 2004.

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